



# City of Carmel

## **Carmel Board of Zoning Appeals Regular Meeting Monday, January 23, 2006**

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, January 23, 2006, in the Court Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Kent Broach, Leo Dierckman and James Hawkins, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Molitor swore in Leo Dierckman as a Mayoral re-appointment to the Board.

Mr. Dierckman moved to approve the minutes of the November 28, 2005 meeting as submitted. The motion was seconded by Mr. Broach and **APPROVED 3-0.**

### **Election of Officers:**

Mr. Broach nominated James Hawkins for President, seconded by Mr. Dierckman.  
**James Hawkins was elected President** of the Board by unanimous consent.

Mr. Broach nominated Earlene Plavchak for Vice President, seconded by Mr. Dierckman.  
**Earlene Plavchak was elected Vice President** of the Board by unanimous consent.

Mrs. Conn gave the Department Report. Item 1j, Ritz Charles Reception Tent had been withdrawn. Items 6-7 j, Frank E. Hawkins, lot 6 – Professional Offices and 8-11 j, Baby Tracts, lots 20-21 – St. Mary & St. Mark Coptic Orthodox Church had been tabled to the next meeting.

Mr. Molitor gave the Legal Report. The Executive Session scheduled at 5:30 PM had been canceled due to a lack of a quorum. He had nothing new to report on the two pending cases and was still trying to get them dismissed as per the Board's instructions. They may need to meet next month if there is further activity.

### **J. Public Hearing**

#### **1j. ~~WITHDRAWN: Ritz Charles, Reception Tent~~**

~~The applicant seeks the following use variance approval:~~

~~**Docket No. 05090023 UV — ZO Chapter 23B.03 — permitted uses**~~

~~The site is located at 12156 N Meridian St. and is zoned S2/Residence & B6/Business within the US 31 Overlay. Filed by Dave Coots of Coots Henke & Wheeler for Ritz Charles.~~

- 2j. Carmel Science & Tech Park, Blk 12, lot 5 - Velocity Sports Performance**  
The applicant seeks use variance approval for an athletic training facility.  
**Docket No. 05120006 UV ZO Chapter 20D.01 permitted uses**  
The site is located at 1402 Chase Ct. and is zoned M-3/Manufacturing.  
Filed by Charlie Frankenberger of Nelson & Frankenberger for BP Sports, LLC.

Present for the Petitioner: Charlie Frankenberger. Velocity Sports Performance specializes in individually tailored performance programs for all level of athletes for improvement or rehabilitation. Coaches assist people in individually tailored programs to assist them in reaching their potential. This proposed use is similar to the dance studio and sports program in nearby buildings. The site and building will remain the same. Two air conditioner units will be added to the exterior.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. This is a smart and efficient use of an existing building. It complies with the Comprehensive Plan and is suitable for the low intensity region and commercial employment area. The Department recommended positive consideration.

Mr. Hawkins asked if they were only using the warehouse section of the building.

Mr. Frankenberger stated that the total building is 25,000 square feet. They will be using the 20,000 warehouse portion. The remaining 5,000 square feet had been office and storage. There is enough parking for the maximum number of clients, plus an area that could be striped for 24 additional spaces if needed.

Mr. Dierckman moved to approved **Docket No. 05120006 UV, Carmel Science & Tech Park, Blk 12, lot 5 – Velocity Sports Performance**. The motion was seconded by Mr. Broach and **APPROVED 3-0**.

- 3j. University High School of Indiana**  
The applicant seeks special use amendment approval for a high school expansion.  
**Docket No. 05120007 SUA ZO Chapter 5.02 special uses**  
The site is located at 2825 W 116<sup>th</sup> St. and is zoned S-1/Residence.  
Filed by Bill Wendling of Campbell, Kyle, Proffitt, LLP.

Present for the Petitioner: Scott Wyatt and Bill Wendling of Campbell, Kyle, Proffitt, LLP. Also present were Becky Feigh Architect and Jackie Bieghler Project Manager with The Odle McGuire & Shook Corporation; Treasurer of the Board of Trustees Phil Himelstein; and Headmaster Chuck Webster.

The school was founded in 2000 and had received permission for the modular classrooms in 2003. They are now prepared to build the academic building and remove the modular classrooms. The new academic building will be west of the current building. A bleacher section will be added to the gym, extending the wall of the current building. They have acquired additional acreage and can accommodate the new building. They will expand the parking to 227 spaces. They also have space to

accommodate athletic fields in the future. The new facility will be consistent in appearance with the present structure. Floor plans were shown.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. This use of the property is consistent with the Comprehensive Plan. All technical issues were addressed by the Technical Advisory Committee and the Department recommended positive consideration.

Mr. Dierckman moved to approved **Docket No. 05120007 SUA, University High School of Indiana**. The motion was seconded by Mr. Broach and **APPROVED 3-0**.

**4j. East 96th Street Auto Park, Blk A**

The applicant seeks approval to amend hours of operation.

**Docket No. 05120009 CA commitment amendment**

The site is located at 9755 Randall Dr. and is zoned B-3/Business.

Filed by P. Adam Davis of Davis & Sarbinoff, LLP.

Present for the Petitioner: Adam Davis. The Auto Park is located near 96<sup>th</sup> Street and Gray Road. The current commitments state hours of operation would be 7:00 AM to 7:00 PM. The facility is used for offices, medical, and veterinarian offices. These hours make it difficult for any emergency treatments. They would like to amend the commitments to allow for emergency treatments only after 7:00 PM.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The Department would need a copy of the new recorded commitments. The Department recommended positive consideration.

Mr. Dierckman asked if the neighbors had been notified and if these were the only two uses that would occur outside the previously committed hours.

Mr. Davis confirmed that the homeowners' associations for the two adjacent subdivisions had been notified. He also confirmed the use would be restricted to emergency basis for medical and veterinarian offices.

Mr. Dierckman moved to approved **Docket No. 05120009 CA, East 96<sup>th</sup> Street Auto Park, Blk A**. The motion was seconded by Mr. Broach and **APPROVED 3-0**.

**5j. Woodland Golf Club, Sec 4, Lot 7 - Lauck Property**

The applicant seeks the following development standards variance:

**Docket No. 05120023 V ZO Chapter 26.02.19.D platted building setback line**

The site is located at 1846 E 110<sup>th</sup> St. and is zoned S-2/Residence.

Filed by Dennis & A Leslie Lauck.

Present for the Petitioner: Dennis and Leslie Lauck. They would like to change the building setback from 75 feet to 50 feet. Three of the four new homes in the neighborhood have already had a variance for the same change. Their garage will be the only part of the building within the 75-foot setback. Their house has the same footprint as a house that was previously approved. A copy of the floor plan was shown.

**Favorable:**

John Simmons, 1900 110<sup>th</sup> Street, next door to the property, felt it was an attractive addition for the area. His was the first newer home built on the street.

Rick Bromm, 1904 E 110<sup>th</sup> Street. His home received the same approval last year. The garage extends into the 25-foot variance.

**Unfavorable:**

Bob Wilson, 1838 110<sup>th</sup> Street, stated that there were set back standards and restrictive covenants for the area. Dividing the lots and building large homes was creating a higher density. Originally the homes were built on two lots, creating one-acre home sites. The original homes had to meet the restrictive covenants. The smaller setback gives them large back yards fronting on the golf course. The lots are approximately 218 feet deep. With a 75-foot setback and a house 78 feet from front to back, that gives them a back yard of approximately 65 feet deep and 108 feet wide. The street is narrow with no curbs or sidewalks. Guests would need to park along the street because the driveway would be shorter and not accommodate many cars. He felt they should abide by the recorded covenants.

Jim Cackler, 1845 110<sup>th</sup> Street, across the street from the parcel. He welcomed new neighbors, but was concerned about the preservation of the green space. He objected to a garage in the front yard. The backyard would still be 60 feet if they used the 75-foot setback.

Ken Handy, 1849 110<sup>th</sup> Street, stated that the covenants were in place and they should build to meet the covenants, not change the setback to meet their building plans.

**Rebuttal:**

Mr. Lauck felt the green space was not much of an issue. They don't want to be that close to the golf course's tee. This setback had already been approved for 3 other lots.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. She stated the Lauck's would still need to get approval from the homeowners' association if the BZA approved the 50-foot setback. The Department recommended positive consideration.

Mr. Dierckman asked about the standard setbacks and the right-of-way for street improvements.

Mrs. Conn stated that the setback in the S-2 zoning classification was 35 feet. The total of the right-of-way would be 50 feet or less.

Discussion followed regarding the enforcement of the covenants and the BZA approvals.

Mr. Dierckman stated that the BZA does not enforce the covenants. That is between the property owner and the homeowners' association.

Mr. Cackler questioned which Department recommended positive consideration and how did the neighbors have input.

Mr. Hawkins told him that it was the Department of Community Services that reviewed the proposed plans and the Public Hearing tonight was for the public's input.

Mr. Broach asked about the tree line on the west of the property and which parcels had already received approval.

Mr. Lauck stated they planned to leave the trees. One parcel was west and another one was east of their property.

Mr. Dierckman stated that the BZA needed to consider value of this variance on the surrounding properties.

Mr. Lauck felt it would substantially enhance the surrounding properties. They would be improving their property about two and a half times.

More discussion followed on the restrictive covenants.

Mr. Wilson stated that originally they covered the square footage of the house, attached garages, and 75-foot setbacks to cover future road expansions.

Mrs. Conn confirmed that the setback is from the property line, not the right-of-way, to the front of the house/building.

Mrs. Lauck confirmed they would not be taking out the tree line on the west of their property. They need to trim a few for construction and they would remove the dead ones.

Mr. Hawkins asked Mr. Molitor to clarify the vote needed with only three Board members present.

Mr. Molitor stated that three votes are needed to approve the variance. Less than three votes would continue the item to the next meeting.

Mr. Dierckman moved to approved **Docket No. 05120023 V, Woodland Golf Club, Sec 4, Lot 7 – Lauck Property**. The motion was seconded by Mr. Broach and **APPROVED 3-0**.

**6-7j. TABLED ~~Frank E Hawkins, lot 6 – Professional Offices~~**

~~The applicant seeks the following use variance & development standards variance approvals:~~

~~**Docket No. 05120013 UV** **ZO Chapter 9.01** **permitted uses**~~

~~**Docket No. 05120014 V** **ZO Chapter 27.03** **curbed/paved parking area**~~

~~The site is located at 320 2<sup>nd</sup> Street SW, and is zoned R-3/Residence within the Old Town Overlay Character Subarea. Filed by Frederick & Jennifer Grief.~~

**8-11j. TABLED: ~~Baby Tracts, lots 20-21 -- St. Mary & St. Mark Coptic Orthodox Church~~**  
~~Petitioner seeks special use amendment approval to expand a church parking lot.~~  
**~~Docket No. 05090019 SUA Chapter 9.02.A special use expansion~~**  
**~~Docket No. 05090020 V Chapter 23E.07.C.1 parking in front yard~~**  
**~~Docket No. 05090021 V Chapter 23E.07.C.2 no parking lot curbing~~**  
**~~Docket No. 05090022 V Chapter 9.04.03.F over 35% lot coverage~~**  
~~The site is located at 800 E 110th Street and is zoned R-3/Residence within the Home Place District. Filed by Robert Epstein of Epstein, Cohen, Donahue, Mendes.~~

K. Old Business.

There was no Old Business.

L. New Business.

There was no New Business.

M. Adjourn.

Mr. Dierckman moved to adjourn. The motion was seconded by Mr. Hawkins and **APPROVED 3-0**.  
The meeting adjourned at 7:05 PM.

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James R. Hawkins, President

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Connie Tingley, Secretary